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{ REPORT
{ No. 2292

CLAIMS OF VATICAN CITY FOR LOSSES AND DAMAGES
CAUSED BY UNITED STATES ARMED FORCES DURING
WORLD WAR II

JUNE 22, 1956.—Ordered to be printed

Mr. GEORGE, from the Committee on Foreign Relations, submitted
the following

R E P O R T

[To accompany H. R. 10766]

The Committee on Foreign Relations, having had under consideration H. R. 10766, to authorize the payment of compensation for certain losses and damages caused by United States Armed Forces during World War II, report the same to the Senate and recommend that it do pass.

PURPOSE

The purpose of the bill is to authorize the Secretary of the Treasury to pay the sum of \$964,199.35 in full and final settlement of all claims of the Vatican City for losses and damages caused by United States Armed Forces in the Papal Domain Castel Gandolfo during World War II. The same amount is authorized to be appropriated for that purpose.

BACKGROUND

Castel Gandolfo was accidentally damaged on February 2, 10, May 31, and June 4, 1944, by bombs dropped from United States planes in raids on nearby military targets. The Foreign Relations Committee once considered this claim in overall legislation submitted by the Department of State in 1947. At that time the committee reported a bill (S. 1605, 80th Cong.) which would have covered the claim but sentiment developed in the Senate to provide only for adjudicated claims. Since the Vatican claims were still under investigation they were dropped from the bill. On December 19, 1948, the Vatican presented the United States with a claim for \$1,523,810.98 in damages. However, the United States Army Claims Service determined through a survey that a reasonable assessment would be \$964,199.35 which is the amount contained in the House bill.

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EXECUTIVE BRANCH COMMENTS

The position of the Department of State is set forth in a letter from the Hon. Robert C. Hill, Assistant Secretary of State to the chairman of the committee, which is reprinted below.

JUNE 11, 1956.

Hon. WALTER F. GEORGE,
*Chairman, Committee on Foreign Relations,
United States Senate.*

DEAR SENATOR GEORGE: Reference is made to your letter of June 7, 1956, concerning H. R. 10766, a bill to authorize the payment of compensation for certain losses and damages caused by United States Armed Forces during World War II.

On July 10, 1943, the Italian campaign then being imminent, President Roosevelt sent a message to Pope Pius XII, the first two paragraphs of which read as follows:

"By the time this message reaches Your Holiness a landing in force of American and British troops will have taken place on Italian soil. Our soldiers have come to rid Italy of fascism and all its unhappy symbols, and to drive out the Nazi oppressors who are infesting her soil.

"There is no need for me to reaffirm that respect for religious beliefs and for the free exercise of religious worship is fundamental to our ideas. Churches and religious institutions will, to the extent that it is within our power, be spared the devastations of war during the struggle ahead. Throughout the period of operations the neutral status of the Vatican City as well as of the Papal Domains throughout Italy will be respected."

In the course of hostilities against German armed forces, the Papal Domain Castel Gandolfo was accidentally damaged on February 2, 10, May 31, and June 4, 1944, by bombs dropped from United States planes during attacks upon legitimate military targets in close proximity thereto.

Communications addressed to the Department of State by the apostolic delegate in Washington following the first of the incidents indicate that Vatican authorities considered that such incidents constituted, in the light of President Roosevelt's message, violations of the "neutrality of Vatican property." On February 4, 1944, the Department, in reply to one of these communications, said in part as follows:

"* * * the policy of this Government with respect to Papal property in Italy as declared by the President in his letter to the Pope last July remains as expressed therein and Allied forces have instructions to carry out that policy to the extent that is humanly possible under conditions of modern warfare."

The Department does not believe that the United States correspondence with the Vatican on this subject can properly be regarded as committing the United States to legal liability for damage caused by accidental bombings. Lack of a legal basis for the Vatican claim is further shown by the provisions of the Lateran Treaty of 1929, by which Italy acknowledged the sovereignty of the Vatican City proper, but not of various properties outside the Vatican City known as the

Papal Domains. With respect to the latter, including Castel Gandolfo, article 15 of the Lateran Treaty provides that—

“* * * (the Papal Domains), although forming a part of the territory of the Italian state, shall enjoy the immunity guaranteed by international law to the embassies of foreign nations.”

It has been pointed out to Vatican representatives that since the Papal Domains were not territory of a neutral state, but had the status of a neutral diplomatic mission located in the territory of a belligerent, there exists no legal basis on which the Vatican's claim can be paid. In this connection it is of interest that the destruction wrought on the embassies of neutrals in Berlin by Allied bombers did not create legal obligations on the part of the Allies to pay damages.

It is considered that the status of the Vatican City and the Papal Domains, and the treatment properly to be accorded them by the Armed Forces, was accurately reflected in a message which the combined Chiefs of Staff sent to General Eisenhower in December 1943. This reads substantially as follows:

1. The Vatican City is to be treated as an independent neutral state.
2. Allied troops must avoid violating territory of the Vatican City.
3. Allied troops must also avoid the Papal Domains which, although not having international status as neutral territory, are entitled to full diplomatic immunity. While every precaution must be taken to avoid violating territory of the Vatican City during the assault upon Rome, the diplomatic immunity of the Papal Domains should not be allowed to interfere with military operations, artillery fire, bombing, etc., during assault.

On December 10, 1948 the Vatican presented to us a claim for \$1,523,810.98 in damages. However, the United States Army Claims Service determined through a survey of the damage that a reasonable assessment, based upon the costs of labor and materials as of April 1945 and calculated according to the then prevailing exchange rate of 100 lire to the dollar, would be 964,199.35. It is understood that the principal reason for the difference between the Vatican figure and the United States Army figure is that the latter does not take account of the cultural and artistic value of the destroyed or damaged property.

While the Department agrees with the intent of H. R. 10766 that payment of an appropriate sum should be made as compensation for the damage sustained at Castel Gandolfo, it believes that such payment is a special matter for determination by the Congress, and that the record should show that the payment is made ex gratia and not as a matter of legal liability.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

ROBERT C. HILL,
Assistant Secretary
(For the Secretary of State).

COMMITTEE ACTION AND RECOMMENDATION

H. R. 10766 was introduced on April 24, 1956, by Representative John W. McCormack. A similar bill, H. R. 10767, was introduced simultaneously by Representative Joseph W. Martin. The first of these bills, H. R. 10766, was passed by the House on June 5, 1956.

The Committee on Foreign Relations considered the legislation on June 12, and received testimony of the Hon. Robert Murphy, Deputy Under Secretary of State. The committee voted to report the bill favorably to the Senate after requesting additional information on the damage which the United States Army Claims Service assessed at \$964,199.35. The report on this damage is printed in the appendix.

The committee also inquired whether the fact that World War II operations were conducted jointly with our allies might make it possible to distribute the costs of these alleged claims. However, in a number of accidental bombings of neutral territories during World War II, compensation has been made by the Government to which the aircraft inflicting the damages belonged. For example, when British bombers accidentally bombed a Turkish island on March 15, 1942, the British Government expressed its regrets and offered compensation. The British offered similar compensation for damages caused by their aircraft in Denmark and Switzerland.

In urging favorable action, the committee concurs in the view of the Department of State that the compensation here approved is not based upon any principle of legal liability. The committee wishes to emphasize that its action must not be regarded as constituting a precedent for other claims for damages to neutral property, whether private or public, which may have been sustained in the course of military operations. The bill is approved solely as an ex gratia gesture of friendship. In that spirit the committee recommends its passage by the Senate.

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APPENDIX

[NOTE.—The following letter summarizes the damages which underlie the authorization contained in the pending resolution.]

OCTOBER 27, 1949.

The honorable the SECRETARY OF STATE.

DEAR MR. SECRETARY: Reference is made to the letter from the Secretary of War to the Secretary of State, dated August 27, 1947, and to the letter from the Secretary of State to the Secretary of the Army, dated March 30, 1949, file L/C 411.00 war damages/12-748, concerning the claim of the Vatican City State. Compensation is claimed for damages resulting from operations of the United States Army against the enemy in Italy during World War II, causing damage to its property, injury and death to Vatican employees, and injury and death to others.

The claim, in the amount of 190,956,998 lire, or approximately \$1,523,810.98, computed at various rates of exchange, was presented by a memorandum, dated December 10, 1948, to the personal representative of the President of the United States to His Holiness, Pope Pius XII, by the Director General of the Administrative and Economic

Services of the State of the Vatican City and also by a letter, dated December 23, 1946, from the said Director General to the Army Claims Service. Copies of these communications are attached. The claim relates to damages as indicated below:

- (a) Property damage on February 2 and 10, May 31, and June 4, 1944 to the Papal Estates and dependencies at Castelgandolfo;
- (b) Property damage on February 2 and 10, 1944, to the College for the Propagation of the Faith at Castelgandolfo;
- (c) Damages arising from the death and injury of persons within the Papal Estates and college property on the dates mentioned above;
- (d) Damage to vehicles used in the transportation of foodstuffs on Italian roads on unspecified dates; and
- (e) Damages arising from the death and injury of Vatican employees on duty with the vehicles mentioned in (d) above.

The Papal Estates and dependencies and the College for the Propagation of the Faith, properties of the Vatican City States, located at Castelgandolfo, Italy, were damaged at the times mentioned. Such damages were incurred as a result of accidental and incidental aerial and ground action of the military forces of the United States while engaged in lawful combat with the enemy as a part of certain attacks upon legitimate military targets outside of the property of the Vatican City State. A fair and reasonable assessment of the damage appears to be as follows:

	<i>Lire</i>
Papal estates and dependencies.....	43, 682, 935
College property.....	52, 737, 000
Total.....	96, 419, 935

These figures are based upon the costs of labor and materials during the month of April 1945. The items of the claim, in an unliquidated sum, for the deaths and personal injuries of the persons indicated, and the damages, in the amount of 6,500,000 lire, to the vehicles mentioned, have not been supported by evidence of record.

The properties damaged at Castelgandolfo were located within territory of Italy, a nation belligerent to the United States. The claim of the Vatican City State for compensation is based, in part at least, upon the ground that, by reason of the Lateran Treaty, a portion of the property at Castelgandolfo enjoyed, under international law, the immunities afforded the seats of diplomatic agents, or the embassies of foreign nations. International law, however, does not appear to recognize that the seat of a diplomatic agent, or the embassy of a foreign nation, is, in law, effectively integrated with the territory of the state from which the mission emanates. The properties damaged were not located within neutral territory. Therefore, no violations of the sovereignty of a neutral state were involved in the incidents mentioned.

Under international law, no legal liability appears to exist on the part of the United States to make compensation for the claims here presented. Therefore, the Department of the Army finds no legal basis on which to recommend the payment of the claims heretofore presented by and on behalf of the Vatican City State, its dependencies, agents, institutions, or inhabitants for damage to the Papal Estates,

the College for the Propagation of the Faith at Castelgandolfo, and for injury or death resulting from the bombardments on February 2, and 10, May 31 and June 4, 1944, and all claims of a related nature, including the claims for damages to its vehicles in Italian territory, and for injury or death of its employees on duty with such vehicles prior to June 5, 1944.

For your information, there is enclosed a copy of the memorandum of the Judge Advocate General to this office, upon which the foregoing conclusions are based.

Sincerely yours,

GORDON GRAY,
Secretary of the Army.

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